

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

MISTY WHITE, et al.,

On behalf of themselves and all others
similarly situated,

Plaintiffs,

v.

[1] HON. PAUL HESSE, in his official
capacity as Chief Judge of the 26th Judicial
District, and

[2] HON. KHRISTIAN STRUBHAR, in her
official capacity as Special Judge in the
Canadian County District Court,

Defendants.

Case No. 5:19-cv-1145-JD

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to LCvR7.1(m), Plaintiffs respectfully submit notice of *Feltz v. Regaldo*, No. 18-cv-0298-SPF-JFJ, (N.D. Okla. April 3, 2024), attached as Exhibit 1, and *Betschart v. Oregon*, 103 F.4th 607 (9th Cir. 2024), attached as Exhibit 2, as supplemental authority directly relevant to issues raised in Plaintiffs' Amended Complaint (Doc. 64) and Defendants' Motion to Dismiss (Doc. 65).

Feltz concerns many of the same substantive and procedural issues as this case. The plaintiffs challenged Tulsa County's bail practices as unconstitutional violations of plaintiffs Due Process and Equal Protection rights under the Fourteenth Amendment.

Exhibit 1, at 2. And the *Feltz* court likewise grappled with questions of judicial immunity and abstention akin to those raised by Defendants in this case. *Id.* at 25, 29.

On cross motions for summary judgment, the *Feltz* court found that:

(1) The judicial defendants' act of creating and distributing a bond schedule was an administrative act and therefore subject to injunctive relief. *Id.* at 26.

(2) *O'Shea* and *Younger* abstention were not applicable and therefore not necessary. *Id.* at 36.

(3) Plaintiffs' substantive due process claim was unnecessary given the procedural due process and equal protection claims. *Id.* at 44.

(4) Plaintiffs' procedural due process claim prevailed under the summary judgment standard regardless of whether the court applied the *Matthews* or *Medina* test. *Id.* at 57, 60

(5) Plaintiff's equal protection claim prevailed under the summary judgment standard. Exhibit 1, at 68.

Thus, the court granted the plaintiffs motion for summary judgment in reference to their procedural due process and equal protection claims and denied the motion in reference to their substantive due process claim. *Id.* at 72. The court set the case for an additional round of briefing and hearings to determine the necessary scope and form of the injunctive relief. *Id.* at 69-70

Betschart likewise concerns some of the same claims and circumstances at issue in this case. The plaintiffs in *Betschart* challenged Oregon's failure to provide them appointed counsel as a violation of their Sixth, Eighth, and Fourteenth Amendment rights. Exhibit 1,

at 10. The district court granted the plaintiffs' motion for a preliminary injunction because it found the plaintiffs likely to succeed on the merits of their Sixth and Fourteenth Amendment claims. In doing so, the district court found that bail hearings are critical stages of the proceedings where the Sixth Amendment right to counsel attaches. *Id.* at 28. And the Ninth Circuit Court of Appeals affirmed the district court's findings. *Id.* at 29.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on July 19, 2024, I electronically filed the forgoing Notice of Supplemental Authority with the Clerk of Court via the Court's CM/ECF system, which effects service upon all counsel of record.

Respectfully submitted,

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